
STATUTORY INSTRUMENTS

1998 No. 1071

**The Family Homes and Domestic
Violence (Northern Ireland) Order 1998**

Orders under the Children (Northern Ireland) Order 1995

Residence and contact orders

28. After Article 12 of the Children (Northern Ireland) Order 1995 (residence orders and parental responsibility) there shall be inserted the following Article—

“Residence and contact orders and domestic violence

12A.—(1) Where a court is considering whether to make a residence or contact order in favour of a prohibited person, the court shall consider whether the child has suffered or is at risk of suffering any harm through seeing or hearing ill-treatment of another person by the prohibited person.

(2) A person is a prohibited person for the purposes of paragraph (1) if either he is or the court considers that he should be prohibited by a non-molestation order under the Family Homes and Domestic Violence (Northern Ireland) Order 1997 from molesting another person.

(3) Paragraph (1) is without prejudice to Article 3.”.

Interim care orders and emergency protection orders

29.—(1) In Article 2(2) of the Children (Northern Ireland) Order 1995 (interpretation), after the definition of “disabled” there shall be inserted the following definition—

““dwelling-house” includes—

- (a) any building or part of a building which is occupied as a dwelling;
- (b) any caravan, houseboat or structure which is occupied as a dwelling, and any yard, garden, garage or outhouse belonging to it and occupied with it;”.

(2) After Article 57 of that Order there shall be inserted the following Article—

“Power to include exclusion requirement in interim care order

57A.—(1) Where—

- (a) on being satisfied that there are reasonable grounds for believing that the circumstances with respect to a child are as mentioned in Article 50(2)(a) and (b)(i), the court makes an interim care order with respect to a child, and
- (b) the conditions mentioned in paragraph (2) are satisfied,

the court may include an exclusion requirement in the interim care order.

(2) The conditions are—

- (a) that there is reasonable cause to believe that, if a person (“the relevant person”) is excluded from a dwelling-house in which the child lives, the child will cease to suffer, or cease to be likely to suffer, significant harm, and
 - (b) that another person (whether a parent of the child or some other person)—
 - (i) is able and willing to live (or continue to live) in the dwelling-house and give to the child the care which it would be reasonable to expect a parent to give him, and
 - (ii) consents to the inclusion of the exclusion requirement.
- (3) For the purposes of this Article an exclusion requirement is any one or more of the following—
- (a) a provision requiring the relevant person to leave a dwelling-house in which he is living with the child,
 - (b) a provision prohibiting the relevant person from entering a dwelling-house in which the child lives, and
 - (c) a provision excluding the relevant person from a defined area in which a dwelling-house in which the child lives is situated and any other defined area.
- (4) The court may provide that the exclusion requirement is to have effect for a shorter period than the other provisions of the interim care order.
- (5) Any period specified for the purposes of paragraph (4) may be extended by the court (on one or more occasions) on an application to vary or discharge the interim care order.
- (6) If, while an interim care order containing an exclusion requirement is in force, the authority has removed the child from the dwelling-house from which the relevant person is excluded to other accommodation for a continuous period of more than 24 hours, the interim care order shall cease to have effect in so far as it imposes the exclusion requirement.”.
- (3) In Article 58 of that Order (discharge and variation, etc., of care orders and supervision orders), after paragraph (3) there shall be inserted the following paragraph—
- “(3A) On the application of a person who is not entitled to apply for the order to be discharged, but who is a person to whom an exclusion requirement contained in the order applies, an interim care order may be varied or discharged by the court in so far as it imposes the exclusion requirement.”.
- (4) After Article 63 of that Order there shall be inserted the following Article—

“Power to include exclusion requirement in emergency protection order

63A.—(1) Where—

- (a) on being satisfied as mentioned in Article 63(1)(a), (b) or (c), the court makes an emergency protection order with respect to a child, and
- (b) the conditions mentioned in paragraph (2) are satisfied,

the court may include an exclusion requirement in the emergency protection order.

(2) The conditions are—

- (a) that there is reasonable cause to believe that, if a person (“the relevant person”) is excluded from a dwelling-house in which the child lives, then—
 - (i) in the case of an order made on the ground mentioned in Article 63(1)(a), the child will not be likely to suffer significant harm, even though the child is not removed as mentioned in Article 63(1)(a)(i) or does not remain as mentioned in Article 63(1)(a)(ii), or

- (ii) in the case of an order made on the ground mentioned in sub-paragraph (b) or (c) of Article 63(1), the enquiries referred to in that sub-paragraph will cease to be frustrated, and
- (b) that another person (whether a parent of the child or some other person)—
 - (i) is able and willing to live (or continue to live) in the dwelling-house and give to the child the care which it would be reasonable to expect a parent to give him, and
 - (ii) consents to the inclusion of the exclusion requirement.
- (3) For the purposes of this Article an exclusion requirement is any one or more of the following—
 - (a) a provision requiring the relevant person to leave a dwelling-house in which he is living with the child,
 - (b) a provision prohibiting the relevant person from entering a dwelling-house in which the child lives, and
 - (c) a provision excluding the relevant person from a defined area in which a dwelling-house in which the child lives is situated and any other defined area.
- (4) The court may provide that the exclusion requirement is to have effect for a shorter period than the other provisions of the order.
- (5) Any period specified for the purposes of paragraph (4) may be extended by the court (on one or more occasions) on an application to vary or discharge the emergency protection order.
- (6) If, while an emergency protection order containing an exclusion requirement is in force, the applicant has removed the child from the dwelling-house from which the relevant person is excluded to other accommodation for a continuous period of more than 24 hours, the order shall cease to have effect in so far as it imposes the exclusion requirement.”.
- (5) In Article 64 of that Order (duration of emergency protection orders and other supplemental provisions), after paragraph (7) there shall be inserted the following paragraph—
 - “(7A) On the application of a person who is not entitled to apply for the order to be discharged, but who is a person to whom an exclusion requirement contained in the order applies, an emergency protection order may be varied or discharged by the court in so far as it imposes the exclusion requirement.”.